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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,502	04/19/2001	Jiping Wang	8053MX	9426

27752 7590 11/27/2002

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EXAMINER

EINSMANN, MARGARET V

ART UNIT PAPER NUMBER

1751

DATE MAILED: 11/27/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

mk-6

**Office Action Summary**

Application No.

09/838,502

Applicant(s)

WANG, JIPING

Examiner

Margaret Einsmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 10-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.                      6) ☐ Other:

Applicant's election with traverse of group 1 and the elected species "fabric softening agents" in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the prevention of the oxidation of sulfur dyes is not the kind of problem that generally arises in the process of forming alloys and that the composition of group 1 cannot be useful for another purpose than inhibiting and/or reducing the oxidation of a sulfur dye. This is not found persuasive because the composition as claimed certainly has other uses. See Whelan which uses the composition of claim 1 to make a catalyst. The restriction is also based on the fact that applicant uses the composition in four distinct processes which applicant cannot deny. Applicant further disputes that there is a serious burden to the examiner and that classification is only for cataloging purposes. This office respectfully disagrees; searching several classes and subclasses is indeed burdensome. Applicant traverses the election of species requirement by referring to the MPEP requirement for restriction. There were adequate reasons given for the restriction. See above. Searching for each of the additives of claim 8 requires search in different classes and subclasses and is additionally burdensome.

The requirement for restriction and election is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Whelan, US 3,885,020.

Whelan discloses aqueous solutions of metal salts. The composition in example 9, col 16, lines 56-65 is an aqueous solution containing lanthanum sulfate, which reads on claims 1-3, 6 and 7, and cobalt sulfate, which reads on claims 1-5. An analysis of claim 1 discloses that the only claimed component in the composition is a material that interacts with a sulfur dye such that the oxidation of the sulfur dye by oxidizing agents is inhibited and/or reduced. Applicant's specification states at page 5 line 13 that lanthanum sulfate is the source of a metal ion that fulfills those requirements as claimed in claim 1.

Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Wella. GB 1,475,971. Example 11 on page 4 second column discloses an aqueous solution of ammonium cerium IV sulfate. Cerium is in its most stable oxidation state, and accordingly meets the limitation of the instant claims.

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rath et al., US 3,544,363.

Rath et al disclose compositions which, when applied to textiles dyed with sulfur dyes, inhibit the bleaching of the sulfur dye from the textile. See example 1 bridging columns 2 and 3. Cotton was dyed with a sulfur dye, aftertreated with the reaction product of epichlorohydrin and ammonia, and then bleached with perborate, wherein the dyed product had improved resistance to the perborate bleach.

Regarding claim 9, applicant's recitation of what is disclosed by the instructions is not patentably distinct from the product. "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." *Ex parte Gwinn* 112 USPQ 439. As the composition is anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention.

Claims 1, 2 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Xu et al., US 5,948,122. Xu states at col 7 lines 33-38:

"The color fastness of sulfur dyes depends greatly on the reduction conditions since over-reduction of the dye may result in low color yields and/or off-shades. The sulfur dyes are very fast to light and washing, but not to chlorine. They are used mainly to dye cotton and other plant fibers

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in a sodium sulfide bath. A subsequent treatment with metal salts can improve the quality of the dyeing."

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson, US 4,615,707.

Examples 1-3 in column 3 anticipate these claims in providing a process of aftertreating cotton which has been dyed with sulfur dyes with a reaction product ® which improves the fastness to chlorine and perborate bleaching. See col 3 lines 8-53. Note that in example 3 the composition additionally includes a commercial softening agent.

The following patents are pertinent to applicant's disclosure:

US 647,493 discloses treating cotton dye with sulfur dyes with copper sulfate (col 1) or zinc sulfate chromate. The latter improves the fastness of the dyeings.

US 687,581 discloses aftertreatment of sulfur dyeings with transition metal salts of chromium, copper and iron in order to improve fastness.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 703-308-3826. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*Margaret Einsmann*  
Margaret Einsmann  
Primary Examiner  
Art Unit 1751

November 22, 2002